

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

UNITED STATES OF AMERICA	:	CRIMINAL NO. 1:09-CR-0072-03
	:	
v.	:	(Chief Judge Conner)
	:	
DESHAWN LIVINGSTON,	:	
	:	
Petitioner.	:	

ORDER

AND NOW, this 4th day of March, 2014, upon consideration of the motion to vacate, set aside, or correct sentence (Doc. 515), filed by petitioner DeShawn Livingston ("Livingston"), and for the reasons set forth in the accompanying memorandum, it is hereby ORDERED that:

1. Livingston's motion to vacate, set aside, or correct sentence (Doc. 515) is DENIED with respect to his ineffective assistance of counsel claims based on (1) his appellate counsel's failure to support the appeal; (2) his trial counsel's failure to use the correct legal standard for suppression; and (3) his trial counsel's failure to move for severance from his co-defendant.
2. The court will defer ruling on Livingston's ineffective assistance of counsel claim based on his trial counsel's failure to engage in plea negotiations pending an evidentiary hearing. See 28 U.S.C. § 2255(b).
3. Kyle W. Rude, Esquire, 333 Market Street, Williamsport, Pennsylvania, 17701, telephone number (570) 321-7554, by CJA Appointment, shall represent Livingston with respect to the remaining claim in his motion to vacate, set aside, or correct sentence (Doc. 515). See R. GOVERNING § 2255 CASES R. 8(c).
4. The Clerk of Court is directed to forward all necessary materials to Kyle W. Rude, Esquire, as soon as possible.

5. An evidentiary hearing shall commence on the remaining claim in the motion to vacate, set aside, or correct sentence (Doc. 515) at **1:30 p.m. on Wednesday, April 23, 2014**, in Courtroom #2, United States Courthouse and Federal Building, 228 Walnut Street, Harrisburg, Pennsylvania.
6. A supplemental briefing schedule will issue following the above-scheduled evidentiary hearing.

/S/ CHRISTOPHER C. CONNER

Christopher C. Conner, Chief Judge
United States District Court
Middle District of Pennsylvania